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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1773 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE D.C.SRIVASTAVA sd/-

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements? No
 2. To be referred to the Reporter or not? No :
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement? No
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder? No
 5. Whether it is to be circulated to the Civil Judge?No :

MOHANLAL MANILAL PAREKH

Versus

SOMCHAND RANGUNAJI PAREKH

Appearance:

MR RN SHAH for Petitioner
MR MB GANDHI for Respondent No. 1

CORAM : MR.JUSTICE D.C.SRIVASTAVA

Date of decision: 11/02/2000

ORAL JUDGEMENT

1. This is tenant's revision under Sec, 29(2) of the Bombay Rent Act against concurrent findings of the trial Court and the Appellate Court confirming that the tenant revisionist has acquired suitable alternative

accommodation for his purpose and further confirming that the standard rent fixed by the Trial Court is proper. The Appellate Court was further of the view that there was no compliance of the provisions of Section 12(3)(b) of the Bombay Rent Act during pendency of the Appeal.

2. Shri M.R.Shah representing Mr.R.N.Shah for the revisionist and Shri M.B.Gandhi for the respondent landlord have been heard and the Judgments of the Courts below have been examined.

3. The lower Appellate Court after considering the entire material on record, mentioned in its judgment that the tenant appellant in Regular Civil Appeal No.23 of 1982 has categorically admitted that he has got a house in Jalalpore area measuring 700 sq.ft. and he has been using this property since 1979. The tenant's defence in that Appeal was that his brother and one or two children studying in a School at Navsari are using the Suit property of that Appeal. It was also found by the Appellate Court that the brother of the appellant is serving in Treasury office at Surat and therefore he used to come to Navsari.

4. The Appeal, out of which the instant revision arose, was numbered as Regular Civil Appeal No.22 of 1982. The Appellate Court found that the position of defence in this Appeal is also hardly different. It was found by the Appellate Court that the tenant got a house constructed in Tagor Nagar Housing Society. Reference was also made of letter Ex.51 of Reg. Civil Suit No.285 of 1978 in which the tenant assured the trustees landlords that as soon as he will get possession of that property under construction he will vacate the disputed premises. It was attempted by the tenant to show that he could not get possession of the newly constructed house. He wanted to wriggle out of his stand and came out with plea that this house actually belongs to his brother who is residing in United Kingdom and with his fund the house was constructed. However, the Appellate Court found that this stand could not be substantiated by the tenant revisionist from any reliable evidence.

5. The appellate Court also examined the findings recorded by the trial Court and it concluded that the findings recorded by the trial Court could not be assailed from any angle. If it is a case of concurrent findings recorded by the two courts below that the tenant got sufficient alternative accommodation, such concurrent findings cannot be reversed by this Court in revision even if it wishes to take different view than that taken

by the two Courts below. Since there is no perversity or illegality in the findings recorded by the two courts below regarding actual availability of alternative accommodation with the tenant no interference in this revision is required.

The revision is accordingly dismissed with no order as to costs. Interim relief dated 10.12.1984 is vacated.

sd/-

Date : February 11, 2000 (D. C. Srivastava, J.)

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